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8 *Attorney For Defendant Guy Griffithe*

9 UNITED STATES BANKRUPTCY COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11 SANTA ANA DIVISION

12 In re  
13 GUY GRIFFITHE,  
14 Debtor

15 GREGORY WICK,  
16 Plaintiff

17 vs.

18 GUY GRIFFITHE  
19 Defendant

Case No. 8:19-bk-12480-TA

Adv. 8:19-ap-01202-TA

Before the Honorable Theodor Albert

Chapter 7

**MOTION TO WITHDRAW AS COUNSEL OF  
RECORD FOR DEFENDANT GUY  
GRIFFITHE; DECLARATION OF BARUCH  
C. COHEN**

[No Hearing Required per LBR 9013-1(p)(4)]

20 TO THE HONORABLE JUDGE THEODORE ALBERT, PLAINTIFF GREGORY  
21 WICK AND HIS ATTORNEYS OF RECORD, AND DEFENDANT GUY GRIFFITHE:

22 PLEASE TAKE NOTICE that Baruch C. Cohen, Esq. (hereinafter referred to as "Cohen"),  
23 who is the counsel of record herein for the Defendant Guy Griffithe ("Defendant") will, and  
24 hereby does, move for an Order under Local Bankruptcy Rule 2091-1(a)(1) allowing Cohen to  
25 withdraw as Defendant's Counsel in this Adversary Case.

26 This Motion is based upon the grounds that substantial irreconcilable differences have  
27 developed and now persist regarding, among other things, the terms of Cohen's retainer and the  
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1 services to be performed thereunder (the exact nature of which is being withheld so as to ensure  
2 no undue prejudice), such that Cohen is no longer able to effectively represent Defendant's  
3 interests. Defendant was advised and warned - in writing - of all upcoming deadlines.

4 This Motion is based upon this Notice, the attached Memorandum of Points and  
5 Authorities and accompanying Declaration of Baruch C. Cohen, and such other evidence and  
6 argument as may be presented at the hearing on this Motion.

7 PLEASE TAKE FURTHER NOTICE that pursuant to LBR 9013-1(o) no hearing is  
8 required. If you wish to oppose this Motion you must file a written response and request for  
9 hearing with the Court and serve it no later than after the date stated on the Proof of Service of  
10 this Motion plus 3 additional days if you were served by mail, electronically, or pursuant to FRCP  
11 5(d)(2)(D), (E), or (F). Your opposition must comply with LBR 9013-1(f) and (o). Failure to  
12 timely respond may be deemed as acceptance of Motion and withdrawal by Baruch Cohen as  
13 Defendant's attorney of record.

14  
15 DATED: February 13, 2020

LAW OFFICE OF BARUCH C. COHEN  
A Professional Law Corporation

16  
17 By /S/ Baruch C. Cohen  
Baruch C. Cohen, Esq.  
18 *Attorney For Defendant Guy Griffith*  
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1. **MEMORANDUM OF POINTS & AUTHORITIES**

a. **FACTS**

Notwithstanding the status of the case, over the last few months, circumstances have substantially changed between the Defendant and Cohen as to, among other things, the terms of Cohen's retainer and the services to be performed thereunder, such that Cohen is no longer financially able to effectively represent Defendant in this action. Based thereon, Cohen has good cause in seeking to withdraw from his representation of Defendant, and since the trial on this case has not been set yet, no prejudice will be inflicted on any party herein. Defendant was advised and warned - in writing - of all upcoming deadlines.

Rule 3-700(c) of the California Rules of Professional Conduct provides, in part, that an attorney may withdraw from representing a client if the client "(d) by other conduct renders it unreasonably difficult for the member to carry out the employment effectively, or ... (f) "breaches an agreement or obligation to the member as to expenses or fees." Based upon Defendant's conduct as set forth above, it is impossible to effectively, represent Defendant because Defendant is not in compliance with the Retainer Agreement. Moreover, Mr. Cohen chooses to no longer represent Defendant when Defendant is unable to pay Mr. Cohen's fees. There is cause to withdraw when the client fails to pay the required attorney 's fees. *Jackie v. Sturkie*, 255 F. Supp. 2d 1096, 1098 (N.D. Cal. 2003), *FTC v. Pacific Medical Clinics*, 1992 WL 12177 (S.D.Cal. April 9, 1992) Cal. Rules of Prof. Conduct 3-700(C)(1)(f). *Feruzzo v. Superior Court*, 104 Cal. App. 3d 501, 540 (1980). Here, Mr. Cohen is a solo practitioner and cannot afford to finance his clients' expensive litigation.

b. **GOOD CAUSE EXISTS TO ALLOW COHEN TO WITHDRAW:**

Due to various circumstances, the nature and extent of which have not been detailed herein but can be disclosed in chambers should the court requires it, the attorney-client relationship between Defendant and Cohen has broken down irreparably such that Defendant should and must obtain alternative counsel immediately.

1 c. **CONCLUSION**

2 For the foregoing reasons, Cohen respectfully requests that this Court grant the within  
3 Motion and issue an Order allowing Cohen to withdraw as Defendant's attorney of record in the  
4 this adversary immediately.

5  
6 DATED: February 13, 2020

LAW OFFICE OF BARUCH C. COHEN  
A Professional Law Corporation

7 By /S/ Baruch C. Cohen  
8 Baruch C. Cohen, Esq.  
9 *Attorney For Defendant Guy Griffith*

**DECLARATION OF BARUCH C. COHEN**

I, BARUCH C. COHEN, declare and state as follows:

1. The facts stated below are true and correct to the best of my personal knowledge and if called upon to testify to them, I could and would competently do so. I have reviewed my file, the court dockets for this Adversary Proceeding, and the Defendants's Petition, Schedules and Statement of Financial Affairs as well as all other documents filed in the Chapter 7 case and the Adversary case. I am familiar with all of their contents.
2. I am a member in good standing and eligible to practice before the following courts: California State Supreme Court; United States Court of Appeals - Ninth Circuit; Bankruptcy Appellate Panel; United States District Courts: Central District of California; Eastern District of California; Northern District of California; and Southern District of California.
3. I am the principal shareholder and President of The Law Office of Baruch C. Cohen, a Professional Law Corporation, located at 4929 Wilshire Boulevard, Suite 940, Los Angeles, California 90010.
4. I represent Defendant Guy Grifithe.
5. This declaration is in support of **MOTION TO WITHDRAW AS COUNSEL OF RECORD** for Defendant Guy Grifithe.
6. Notwithstanding the status of the case, over the last few months, circumstances have substantially changed between the Defendant and I as to, among other things, the terms of my retainer and the services to be performed thereunder, such that I am no longer financially able to effectively represent Defendant in this action. Based thereon, I have good cause in seeking to withdraw from my representation of Defendant, and since the trial on this case has not been set yet, no prejudice will be inflicted on any party herein. Defendant was advised and warned - in writing - of all upcoming deadlines.
7. I am also a solo practitioner and cannot afford to finance Defendant's expensive litigation.
8. Due to various circumstances, the nature and extent of which have not been detailed herein

1 but can be disclosed in chambers should the court require it, the attorney-client  
2 relationship between Defendant and I have broken down irreparably such that Defendant  
3 should and must obtain alternative counsel immediately.

4 9. For the foregoing reasons, I respectfully request that this Court grant the within Motion  
5 and issue an Order allowing me to withdraw as Defendant's attorney of record in this  
6 adversary immediately.

7  
8 I declare under penalty of perjury under the laws of the State of California that the  
9 foregoing is true and correct.

10 Executed February 13, 2020, at Los Angeles, California.

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12 By /s/ Baruch C. Cohen

13 Baruch C. Cohen  
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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

4929 Wilshire Boulevard, Suite 940, Los Angeles, California 90010.

A true and correct copy of the foregoing document entitled: **MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR DEFENDANT GUY GRIFFITHE** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On 2/13/2020, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Thomas H Casey (TR)                      msilva@tomcaseylaw.com, thc@trustesolutions.net  
United States Trustee (SA)              ustpreion16.sa.ecf@usdoj.gov

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:** On 2/13/2020, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Gregory Wick, 45159 Vine Cliff St, Temecula, CA 92592

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on 2/13/2020,, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Theodor C. Albert, 411 West Fourth Street, Suite 5085, Santa Ana, CA 92701-4593

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

2/13/2020  
Date

Baruch C. Cohen, Esq.  
Printed Name

/s/ Baruch C. Cohen  
Signature